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**FAX COVER SHEET**

☐ URGENT  
☐ CONFIDENTIAL

DATE: APRIL 17, 1998TOTAL PAGES: 3TO: MS. KATHLEEN SCHNIEDERSFAX NUMBER: (312) 886-0747COMPANY: US EPA

TELEPHONE: \_\_\_\_\_

FROM: EUGENE E. SMARY  
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REMARKS:

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February 27, 1998

**VIA TELECOPIER AND**  
**CERTIFIED MAIL--RETURN**  
**RECEIPT REQUESTED**

Ms. Kathleen Schnieders (C14J)  
Assistant Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection  
Agency  
Region V  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Re: **Albion-Sheridan Township Landfill Superfund Site, Albion, Michigan--Notice  
of Performance Delay**

Dear Ms. Schnieders:

This letter is sent on behalf of Cooper Industries, Inc. and Corning, Inc. ("Respondents") to notify you of delay in implementing the Unilateral Administrative Order ("UAO") for the Albion-Sheridan Township Landfill Superfund Site entered into on October 11, 1995. This notice is provided to you in accordance with the provisions of paragraphs 70 and 71 of the UAO. Neither this letter nor any of the activities undertaken in connection with the Site should be construed as an acknowledgment of liability by Respondents or of the validity of the UAO issued in connection with this matter.

The underlying reasons for the potential delay are: 1) Decker Manufacturing Inc.'s unauthorized and ambiguous acquisition of property adjacent to the Site that is critical for Site access; 2) related access issues arising from complications associated with the current law suit; and 3) uncertain title to the existing landfill. Even though the Respondents have been the only UAO recipients actually implementing the Order, the City of Albion has chosen to bring a third party claim against them as part of its defense against the law suit brought by the United States. Respondents necessarily are devoting their time and energy to the demands of the suit, and, have been required to bring suit against Decker Manufacturing, Inc. ("Decker") the other UAO recipient, which was not sued by Albion, apparently for local political reasons. Accordingly, all activities among the parties currently involved at the Site must be understood within the context of the law suit.

Ms. Kathleen Schmieders

April 17, 1998

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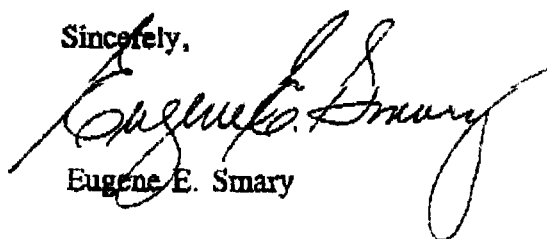
As required by law, the Respondents have been implementing the UAO in good faith. The current, more intrusive stage of implementing the remedy requires access to and through certain adjoining parcels of property. Decker, apparently through a subsidiary, claims to have obtained title to these parcels. However, Decker has been unwilling to provide details about the status of these parcels and has unacceptably conditioned access. These issues must now be resolved in the current lawsuit. As you are aware, the parties are beginning the discovery process necessary to assess each party's liability at the Site. This process will take time.

Finally, access to the Landfill itself is necessary to implement the UAO. Title to the Landfill property is currently open to dispute. Due to an error in the transfer of the property to the State of Michigan in 1991 because of delinquent taxes, a portion of the property previously sold to a third party was not excepted from the deed. Accordingly, the State did not hold proper title when it subsequently auctioned the property. Steps have since been taken by the State to retrieve the auctioned deed and cancel the State's title in order to make the necessary corrections. However, we have not been notified that ownership has been finally determined, despite repeated inquiries and a recent Freedom of Information Act request. Until title is determined, proper access cannot be obtained.

Respondents plan to proceed in the prudent defense of the current law suit. While the Respondents have committed themselves to the implementation of the UAO, and are the only recipients to have done so, they feel compelled to provide you with this notification pursuant to the provisions of paragraphs 70 and 71 of the UAO that there will be unavoidable delays in further implementation of the UAO.

Should you have any questions with regard to this letter, please do not hesitate to call me.

Sincerely,



Eugene E. Smary

lap

cc: Mr. Jon Peterson  
Cooper Industries  
Corning, Inc.

#301749

Decker says wants to be protected?

Title Does not have to wait for  
Lawsuit lawsuit to play out

mechanisms under part 201 of financing  
scheme